

REMARKS

The Office Action dated March 13, 2008 has been carefully reviewed. Reconsideration of the rejections contained therein is respectfully requested in view of the following remarks. Claims 1-21 are pending in the application. Claims 1, 4, 8, 10, 14, and 18 are independent claims. No claims are amended and no claims are canceled in the above listing of claims.

Allowance or New Office Action Request for Claims 10-21

Applicants note that claims 10-21 pending in the present application have not been Examined. Applicants believe these claims are allowable and respectfully request a notice of allowance. If the Examiner believes claims 10-21 are not allowable at this time, a new Office Action detailing the grounds of rejection is respectfully requested.

35 U.S.C. § 102 & 103 Rejections

Claims 1-6 and 8-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,337,983 to Bonta et al. (hereinafter "Bonta"). Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonta in view of U.S. Patent No. 6,633,554 to Dalal et al. (hereinafter "Dalal"). Applicant respectfully traverses each of these rejections for at least the following reasons.

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

The Examiner argues that the emergency (or rescue) PSMM message taught in Bonta is transmitted at an increased power level as compared to a normal PSMM message. The Examiner reasons that transmitting a normal PSMM message is therefore equivalent to the claimed "transmitting a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal," and that subsequently transmitting a rescue PSMM message (at an allegedly higher transmit power level) is equivalent to the claimed "transmitting the pilot strength measurement message from the mobile terminal at a second transmit power level determined by the mobile terminal, wherein the second transmit power level is greater than the first transmit power level."

Applicants disagree with the Examiner's position that the rescue PSMM is necessarily transmitted at a higher power level, as detailed in Applicants' response of January 22, 2008. However, as discussed below in more detail, even if the Examiner is correct about the relative transmit powers, the rescue PSMM message is a **different** message than the normal PSMM message, and the combination of two distinct messages cannot be used to read on the single PSMM message of the claimed invention.

In Bonta, during normal operation, a mobile transmits a normal PSMM to its serving base station indicating pilot channel signal strengths of the base stations in its active set (i.e., the serving base station itself) to assist in power management, etc. When the mobile initiates a rescue operation, the mobile promotes one or more of the neighboring base stations to the

mobile's active set (step 630). Subsequently, the mobile transmits a rescue PSMM message (step 632) further indicating the pilot strength measurements of the neighboring (rescue) cells used in the rescue operation. Accordingly, the normal and rescue PSMM messages include different information, and are therefore distinct messages.

More specifically, Bonta explicitly defines the rescue (emergency) PSMM in col. 3, lines 11-16:

The rescue procedure is enhanced by initially attempting the transmission at maximum power an unacknowledged message from the mobile containing the current pilot channel signal strengths measured from the strongest n cells (subsequently this message will be referred to as an emergency PSMM).” (See col. 3, lines 11-16).

As defined, the rescue PSMM is a message transmitted by the mobile during a rescue procedure containing the current pilot channel signal strengths measured from the strongest n cells. This passage clearly shows that the rescue PSMM is different than the normal PSMM, and includes information to assist in handoff.

The distinction between the normal and rescue PSMM messages is also clear in the context of step 627 (explicitly pointed to by the Examiner in the rejection), where a mobile transmits a normal PSMM to let the infrastructure know that the rescue procedure has concluded and that the reserved rescue channels are not being used at this time. (See FIG. 4, and col. 11, lines 16-20). If the rescue PSMM and normal PSMM messages were not different, this indication could not be made by a normal PSMM.

Accordingly, in multiple instances, Bonta illustrates the distinctions between the normal and rescue PSMM messages. Again, the combination of two distinct messages cannot be used to read on the single PSMM message of the claimed invention.

For at least the above reasons and the reasons presented in the January 22, 2008 response, Applicants submit that Bonta does not teach or suggest all the features of independent claims 1, 4, 8, 10, 14, and 18, which are therefore allowable over Bonta. The remaining dependent claims are likewise allowable at least by virtue of their dependence from an allowable base claim.

SUMMARY

Since the Examiner has maintained his rejection of claims 1-9 under 35 U.S.C. § 102 and 103 as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the January 22, 2008 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicants' response of the January 22, 2008, it is respectfully submitted that claims 1, 4, 8, 10, 14, and 18 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated 6/11/08

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